

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH LUIS GARCIA,

Defendant.

4:22CR3039

ORDER

Defendant's trial, originally scheduled for November 28, 2022, was cancelled upon notice that Defendant wanted to enter a change of plea. The plea hearing was set for November 29, 2022. The court has now been advised that Defendant is not currently willing to enter a plea of guilty.

The court will set this matter for trial. After conferring with defense counsel, the time between November 28, 2022 and January 23, 2023 will be excluded time under the Speedy Trial Act because Defendant's decision not to enter a plea of guilty at this time has disrupted the normal scheduling practices of this court, the parties' ability to anticipate the need to prepare for trial, the availability of witnesses, and the parties' trial preparations. Accordingly,

IT IS ORDERED:

- 1) The trial of this case is set to commence before the Honorable John M. Gerrard, United States District Judge, in Courtroom 1, United States Courthouse, Lincoln, Nebraska, at 9:00 a.m. on January 23, 2023, or as soon thereafter as the case may be called, for a duration of four (4) trial days. Jury selection will be held at commencement of trial.

- 2) The government's expert witness disclosures as required under Rule 16 must be served on or before December 23, 2022, with any defense Rule 16 expert disclosures served on or before January 6, 2023, and any rebuttal opinions disclosed on or before January 13, 2023.
- 3) The time between November 28, 2022 and January 23, 2023, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act because the parties require additional time to adequately prepare the case for trial, taking into consideration due diligence of counsel, the novelty and complexity of the case, and the fact that the failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B). Failing to timely object to this order as provided under the court's local rules will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.

November 28, 2022.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge